

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

---

Kalil Mims,

Civ. No. 20-2379 (PAM/BRT)

Petitioner,

v.

**REPORT AND  
RECOMMENDATION**

S. Kallis,

Respondent.

---

In an Order dated December 14, 2020, this Court ordered Petitioner Kalil Mims to either pay this action’s filing fee or apply to proceed *in forma pauperis* (“IFP”). (Doc. No. 7, Ord. 2.) The Court gave Mims 30 days—until January 13, 2021—to pay the fee or submit an IFP application, failing which this Court would recommend dismissing this action without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Mims has neither paid this action’s filing fee nor submitted an IFP application.<sup>1</sup> Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See, e.g., Henderson v. Renaissance Grand Hotel*, 267 F. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss

---

<sup>1</sup> Petitioner did file a Motion to Appoint Counsel. (Doc. No. 12.) In light of this Court’s recommendation that this matter be dismissed, however, this Court further recommends that motion be denied as moot.

an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

### RECOMMENDATION

1. Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute; and

2. Petitioner's Motion to Appoint Counsel (Doc. No. 12) be **DENIED** as moot.

Dated: January 28, 2021

s/ Becky R. Thorson

BECKY R. THORSON

United States Magistrate Judge

### NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).